

103D CONGRESS  
1ST SESSION

# H. R. 2874

To improve the management of Indian fish and wildlife resources on Indian lands, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1993

Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To improve the management of Indian fish and wildlife resources on Indian lands, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Indian Fish and Wild-  
5       life Resource Enhancement Act of 1993”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds and declares that—

8               (1) the United States and Indian tribes have a  
9       government-to-government relationship;

1           (2) the United States has a trust responsibility  
2       to protect, conserve, and enhance Indian fish and  
3       wildlife resources consistent with its fiduciary obliga-  
4       tion to and its unique relationship with Indian  
5       tribes. This trust responsibility extends to all Fed-  
6       eral agencies and departments and absent a clear ex-  
7       pression of congressional intent to the contrary, the  
8       United States has a duty to administer Federal fish  
9       and wildlife conservation laws in a manner consist-  
10      ent with the treaty rights of Indian tribes;

11          (3) Federal statutes and regulations affecting  
12      Indian fish and wildlife resources and tribal resource  
13      management activities shall be interpreted in accord-  
14      ance with the trust responsibility set forth in this  
15      Act;

16          (4) fish and wildlife resources located on Indian  
17      lands and treaty-ceded territory continue to provide  
18      a resource base for the subsistence, cultural enrich-  
19      ment, and economic support of Indian tribes and in-  
20      dividual Indians;

21          (5) Indian tribes have jurisdiction over Indian  
22      and non-Indian hunting and fishing activities on In-  
23      dian reservations and function as comanagers with  
24      tribal, States, and Federal authorities to carry out  
25      shared management responsibilities for fish and

1 wildlife resources arising from treaties, statutes, or  
2 court orders;

3 (6) the United States has an obligation to pro-  
4 vide assistance to Indian tribes to monitor and regu-  
5 late Indian hunting and fishing activities, to protect  
6 and conserve populations and habitats of tribal fish  
7 and wildlife resources, and to maintain fish hatch-  
8 eries and other facilities required for the prudent  
9 management, enhancement, and mitigation of fish  
10 and wildlife resources; and

11 (7) increased and improved management of In-  
12 dian fish and wildlife resources will yield increased  
13 economic returns, enhance Indian self-determination,  
14 promote employment opportunities, and improve the  
15 social and economic well-being of Indian and sur-  
16 rounding communities.

17 **SEC. 3. PURPOSES.**

18 The purposes of this Act are—

19 (1) to reaffirm and protect Indian hunting,  
20 fishing, and gathering rights and to provide for the  
21 conservation, prudent management, enhancement,  
22 orderly development and use of the resources upon  
23 which the meaningful exercise of such rights depend;

24 (2) to maximize tribal capability and flexibility  
25 in managing fish and wildlife resources for the con-

1       tinuing benefit of Indian people, and in comanaging  
2       shared resources for the benefit of the Nation, in a  
3       manner consistent with Indian trust and rights pro-  
4       tection responsibilities;

5           (3) to support Indian self-determination and  
6       tribal self-governance by authorizing and encourag-  
7       ing government-to-government communications and  
8       cooperative agreements between Federal, State, and  
9       local governments and to foster tribal participation  
10      in multijurisdictional fish and wildlife resource deci-  
11      sionmaking; and

12           (4) to establish an Indian Fish and Wildlife Re-  
13      source Management Education Assistance Program  
14      within the Bureau of Indian Affairs to promote and  
15      develop full tribal capability and multidisciplinary  
16      competence in managing fish and wildlife resource  
17      programs.

18   **SEC. 4. DEFINITIONS.**

19       For the purposes of this Act:

20           (1) The term “Bureau” means the Bureau of  
21      Indian Affairs within the Department of the Inte-  
22      rior.

23           (2) The term “Indian fish hatchery” means any  
24      multi- or single-purpose facility owned or operated  
25      by an Indian tribe or the Bureau, or by the United

1 States Fish and Wildlife Service on an Indian res-  
2 ervation, which is engaged in the spawning, hatch-  
3 ing, rearing, holding or caring for or stocking of  
4 fish, including any related research and diagnostic  
5 fish health facility.

6 (3) The term “fish hatchery maintenance”  
7 means work that is required at periodic intervals to  
8 prolong the life of a fish hatchery and its compo-  
9 nents and associated equipment.

10 (4) The term “fish hatchery rehabilitation”  
11 means work that is required to address the physical  
12 deterioration or functional obsolescence of a fish  
13 hatchery building, structure or other facility compo-  
14 nent, or to repair, modify, or improve a fish hatch-  
15 ery building, structure or other facility component.

16 (5) The term “forest land management activ-  
17 ity” has the same meaning given to such term by  
18 section 304(4) of the Indian Forest Resources Man-  
19 agement Act (25 U.S.C. 3103(4)).

20 (6) The term “Indian fish and wildlife re-  
21 source” means any species of animal or plant life lo-  
22 cated on Indian reservations or in which Indians  
23 have a right protected by Federal law to fish, hunt,  
24 trap, or gather for subsistence, ceremonial, rec-  
25 reational or commercial purposes, or for which an

1 Indian tribe has management or comanagement re-  
2 sponsibilities.

3 (7) The term “Indian” means a member of an  
4 Indian tribe as defined in section 4 of the Indian  
5 Self-Determination and Education Assistance Act  
6 (25 U.S.C. 450b).

7 (8) The term “Indian land” means land, the  
8 title to which is held by—

9 (A) the United States in trust for an In-  
10 dian or Indian tribe; or

11 (B) an Indian or Indian tribe, and is sub-  
12 ject to restrictions against alienation.

13 (9) The term “Indian reservation” includes res-  
14 ervations established pursuant to treaties, Acts of  
15 Congress or Executive orders, and public domain In-  
16 dian allotments, and former Indian reservations in  
17 the State of Oklahoma.

18 (10) The term “Indian tribe” means any Indian  
19 tribe, band, nation, pueblo, or other organized group  
20 or community which is recognized as eligible for the  
21 special programs and services provided by the Unit-  
22 ed States to Indians because of their status as Indi-  
23 ans.

24 (11) The term “integrated resource manage-  
25 ment plan” means the plan developed pursuant to

1 the process used by tribal governments to assess  
2 available resources and to provide identified holistic  
3 management objectives that include quality of life,  
4 production goals and landscape descriptions of all  
5 designated resources that may include (but not be  
6 limited to) water, fish, wildlife, forestry, agriculture,  
7 minerals, and recreation, as well as community and  
8 municipal resources, and may include any previously  
9 adopted tribal codes and plans related to such re-  
10 sources.

11 (12) The term “resource management activi-  
12 ties” means all activities performed in managing In-  
13 dian fish and wildlife resources. This term shall not  
14 include forest land management activities.

15 (13) The term “Secretary” means the Secretary  
16 of the Interior.

17 (14) The term “treaty ceded territory” means  
18 the land ceded to the United States by treaty upon  
19 which the ceding tribe or tribes retain hunting, fish-  
20 ing, and gathering rights.

21 (15) The term “tribal organization” has the  
22 meaning given to such term by section 4 of the In-  
23 dian Self-Determination and Education Assistance  
24 Act (25 U.S.C. 450b).

1 **SEC. 5. INDIAN FISH AND WILDLIFE RESOURCE MANAGE-**  
2 **MENT PROGRAM.**

3 (a) MANAGEMENT OBJECTIVES.—Consistent with  
4 the provisions of the Indian Self-Determination and Edu-  
5 cation Assistance Act (Public Law 93–638), the Secretary  
6 shall provide for the management of Indian fish and wild-  
7 life resources to achieve the following objectives:

8 (1) To protect, conserve, and enhance fish and  
9 wildlife resources that are important to Indian tribes  
10 for subsistence, cultural enrichment, and economic  
11 development and to promote the development of  
12 these resources for the benefit of Indian tribes and  
13 their members.

14 (2) To protect Indian hunting, fishing, and  
15 gathering rights guaranteed to Indian tribes by the  
16 United States through treaty, statute, or Executive  
17 order.

18 (3) To provide for the development and en-  
19 hancement of the capacities of Indian tribes to man-  
20 age Indian fish and wildlife resources.

21 (4) To selectively develop and increase produc-  
22 tion of certain fish and wildlife resources in order to  
23 provide for the subsistence, economic, and employ-  
24 ment needs of Indian tribes.

25 (5) To manage Indian fish and wildlife re-  
26 sources consistent with integrated resource manage-



1        ment plans in order to protect and maintain other  
2        values such as Indian forest resources, Indian agri-  
3        cultural resources, cultural resources, aesthetics,  
4        recreation, and other traditional values.

5        (b) MANAGEMENT PROGRAM.—(1) The Secretary, in  
6        full consultation with Indian tribes, shall establish the In-  
7        dian Fish and Wildlife Resource Management Program in  
8        order to achieve the objectives set forth in subsection (a).

9        (2) The Secretary shall promote and provide assist-  
10        ance for the tribal management of Indian fish and wildlife  
11        resources through contracts, cooperative agreements, or  
12        grants under the Indian Self-Determination Act (25  
13        U.S.C. 450 et seq.).

14        (3) The Secretary, upon the request of any Indian  
15        tribe or tribal organization, shall enter into a contract with  
16        the tribe or tribal organization to plan, conduct, and ad-  
17        minister any program within the Department of the Inte-  
18        rior which affects Indian fish and wildlife resources and  
19        is currently administered by the Secretary.

20        (c) MANAGEMENT ACTIVITIES.—Indian fish and  
21        wildlife resource management activities carried out under  
22        the program established under subsection (b) may include  
23        (but shall not be limited to)—

1           (1) the development, implementation, and en-  
2           forcement of tribal codes, ordinances, and regula-  
3           tions;

4           (2) the development and implementation of re-  
5           source and management plans, surveys, and inven-  
6           tories;

7           (3) conducting fish and wildlife population and  
8           life history investigations, habitat investigations,  
9           habitat restoration, harvest management, and use  
10          studies;

11          (4) fish production and hatchery management;

12          (5) the development of tribal conservation pro-  
13          grams, including employment and training of tribal  
14          conservation enforcement officers; and

15          (6) participation in joint or cooperative man-  
16          agement fish and wildlife resources on a regional  
17          basis with Federal, State, Tribal, and local authori-  
18          ties.

19          (d) ASSISTANCE.—The Secretary is authorized to  
20          provide financial and technical assistance to enable Indian  
21          tribes to—

22                (1) conduct a review of existing tribal codes, or-  
23                dinances, and regulations governing the management  
24                of fish and wildlife resources;

1           (2) update and revise tribal codes, ordinances,  
2           and regulations governing tribal fish and wildlife re-  
3           source protection and use;

4           (3) determine and document the need for tribal  
5           conservation officers, tribal fisheries and wildlife bi-  
6           ologists, and other professionals to administer In-  
7           dian fish and wildlife resource management pro-  
8           grams;

9           (4) provide training to and develop curricula for  
10          Indian fish and wildlife resource personnel, including  
11          tribal conservation officers, which incorporate law  
12          enforcement, fish and wildlife conservation, identi-  
13          fication and resource management principles and  
14          techniques; and

15          (5) determine and document the condition of  
16          the Indian fish and wildlife resources.

17          (e) INDIAN FISH AND WILDLIFE RESOURCE MAN-  
18          AGEMENT PLANS.—(1) To meet the management objec-  
19          tives set forth in subsection (a), an Indian fish and wildlife  
20          resource management plan shall be developed and imple-  
21          mented as follows:

22                (A) Pursuant to a self-determination contract  
23                or self-governance compact under the Indian Self-  
24                Determination Act, an Indian tribe may develop or  
25                implement an Indian fish and wildlife management

1 plan. Subject to the provisions of subparagraph (C),  
2 the tribe shall have broad discretion in designing  
3 and carrying out the planning process.

4 (B) If a tribe chooses not to contract the devel-  
5 opment or implementation to plan, the Secretary  
6 shall develop or implement the plan in close con-  
7 sultation with the affected tribe.

8 (C) Whether developed directly by the tribe or  
9 by the Secretary, the plan shall—

10 (i) determine the condition of fish and  
11 wildlife resources and habitat conditions,

12 (ii) identify specific tribal fish and wildlife  
13 resource goals and objectives,

14 (iii) establish management objectives for  
15 the resources,

16 (iv) define critical values of the Indian  
17 tribe and its members and provide identified ho-  
18 listic management objectives,

19 (v) be developed through public meetings,

20 (vi) use the public meeting records, exist-  
21 ing survey documents, reports, and other re-  
22 search from Federal agencies and tribal com-  
23 munity colleges, and

24 (vii) be completed within three years of the  
25 initiation of activity to establish the plan.

1       (2) Indian fish and wildlife management plans devel-  
2 oped and approved under this section shall govern the  
3 management and administration of Indian fish and wild-  
4 life resources by the Bureau and the Indian tribal govern-  
5 ment.

6 **SEC. 6. TRIBAL CONSULTATION.**

7       The Secretary, in any departmental action which af-  
8 fects Indian fish and wildlife resources, shall fully consult  
9 with and seek the participation of Indian tribes in a man-  
10 ner consistent with the Federal trust responsibility and  
11 the government-to-government relationship between In-  
12 dian tribes and the Federal Government.

13 **SEC. 7. INDIAN FISH HATCHERY PROGRAM.**

14       (a) ESTABLISHMENT.—The Secretary, with the full  
15 and active participation of Indian tribes, shall establish  
16 and administer an Indian Fish Hatchery Program within  
17 the Bureau of Indian Affairs to produce and distribute  
18 to Indian tribes a variety of species of fish to assist Indian  
19 tribes to develop tribal hatcheries and enhance fish re-  
20 sources on the reservation.

21       (b) NEEDS REPORT.—Within one year after the date  
22 of enactment of this Act, the Secretary, with the full and  
23 active participation of Indian tribes, shall transmit a re-  
24 port to the Congress identifying the facilities which com-  
25 prise the Indian Fish Hatchery Program, the mainte-

1 nance, rehabilitation, and construction needs of such fa-  
2 cilities, and providing a plan for their administration and  
3 cost-effective operation.

4 **SEC. 8. INDIAN BISON CONSERVATION PROGRAM.**

5 (a) GENERAL AUTHORIZATION.—The Secretary is  
6 authorized to enter into contracts with or make grants to  
7 Indian tribes and tribal organizations to develop and  
8 maintain an Indian Bison Conservation Program to meet  
9 tribal subsistence, ceremonial, commercial, and resource  
10 needs.

11 (b) REQUIRED CONTENT.—An Indian Bison Con-  
12 servation Program established under this section shall pro-  
13 vide for the preservation, restoration, production, care and  
14 management of bison.

15 (c) USE OF FUNDS.—Funds provided under this sec-  
16 tion may be used to—

17 (1) develop and implement bison management  
18 plans, surveys, and inventories;

19 (2) conduct research on bison populations and  
20 habitat;

21 (3) undertake habitat restoration; and

22 (4) develop range ecology and conservation pro-  
23 grams.

1 **SEC. 9. EDUCATION IN FISH AND WILDLIFE RESOURCE**  
2 **MANAGEMENT.**

3 (a) FISH AND WILDLIFE RESOURCES INTERN PRO-  
4 GRAM.—(1) The Secretary shall establish a Fish and Wild-  
5 life Resources Intern Program within the Bureau, for at  
6 least 20 Indian fish and wildlife intern positions. Such po-  
7 sitions shall be in addition to the forester intern positions  
8 authorized in section 314(a) of the National Indian Forest  
9 Resources Management Act (25 U.S.C. 3113(a)). Individ-  
10 uals selected as interns shall be enrolled full-time in ap-  
11 proved post-secondary or graduate schools in curricula  
12 leading to advanced degrees in fish and wildlife resource  
13 management related fields.

14 (2) The Secretary shall pay all costs for tuition,  
15 books, fees, and living expenses incurred by Indian fish  
16 and wildlife interns while attending approved study pro-  
17 grams.

18 (3) An Indian fish and wildlife resource intern shall  
19 be required to enter into an obligated service agreement  
20 to serve in a professional fish and wildlife management  
21 related capacity with an Indian tribe or tribal organiza-  
22 tion, or with the Bureau of Indian Affairs or the United  
23 States Fish and Wildlife Service serving or benefiting In-  
24 dian lands for one year for each year of education that  
25 the Secretary pays the intern's educational costs under  
26 paragraph (1).

1       (4) An Indian fish and wildlife resource intern shall  
2 be required to report for service to his employing entity  
3 during any break in attendance at school of more than  
4 3 weeks duration. Time spent in such service shall be  
5 counted toward satisfaction of the intern's obligated serv-  
6 ice agreement.

7       (b) COOPERATIVE EDUCATION PROGRAM.—(1) The  
8 Secretary shall maintain, through the Bureau of Indian  
9 Affairs, a cooperative education program for the purpose  
10 of recruiting promising Indian students who are enrolled  
11 in secondary schools, tribally controlled community col-  
12 leges, and other postsecondary or graduate schools for em-  
13 ployment as professional fisheries and wildlife biologists,  
14 or other related professional with an Indian tribe, tribal  
15 organization, or with the Bureau or with the United  
16 States Fish and Wildlife Service serving or benefiting In-  
17 dian lands.

18       (2) Under this program, the Secretary shall pay all  
19 costs for tuition, books and fees of an Indian student who  
20 is enrolled in a course of study at an education institution  
21 with which the Secretary has entered into a cooperative  
22 agreement and who is interested in a career with an In-  
23 dian tribe, tribal organization, or the Bureau or with the  
24 United States Fish and Wildlife Service serving or benefit-  
25 ing Indian lands.



1       (3) A recipient of assistance under this program shall  
2 be required to enter into an obligated service agreement  
3 to serve as a professional fish or wildlife biologist or other  
4 related professional position with an Indian tribe, tribal  
5 organization, the Bureau, or the United States Fish and  
6 Wildlife Service for one year for each year that the Sec-  
7 retary pays the recipient's educational costs pursuant to  
8 paragraph (2).

9       (c) SCHOLARSHIP PROGRAM.—(1) The Secretary is  
10 authorized to grant fish and wildlife management scholar-  
11 ships to Indians enrolled in accredited programs for post-  
12 secondary and graduate fish and wildlife resource manage-  
13 ment related fields of study as full-time students.

14       (2) A recipient of a fish and wildlife management  
15 scholarship shall be required to enter into an obligated  
16 service agreement in which the recipient agrees to accept  
17 employment following completion of the recipient's course  
18 of study with an Indian tribe, a tribal organization, the  
19 Bureau, or the United States Fish and Wildlife Service  
20 for one year for each year the recipient received a scholar-  
21 ship.

22       (3) The Secretary shall not deny scholarship assist-  
23 ance under this subsection solely on the basis of an appli-  
24 cant's scholastic achievement if the applicant has been ad-

mitted to and remains in good standing in an accredited post-secondary or graduate institution.

(d) FISH AND WILDLIFE EDUCATION OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, with the full and active participation of Indian tribes, a fish and wildlife resource and education outreach program to explain and stimulate interest in all aspects of fish and wildlife management and to generate interest in careers as fisheries and wildlife biologists.

(e) POSTGRADUATE RECRUITMENT.—The Secretary shall establish and maintain a program to attract professional Indian fish and wildlife biologists who have graduated from post-secondary or graduate schools for employment by Indian tribes, tribal organizations, the Bureau, or the United States Fish and Wildlife Service, in exchange for the assumption by the Secretary of all or a portion of the outstanding student loans of the employee, depending upon the period of employment involved.

(f) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of personnel are available to administer tribal fish and wildlife resource management programs on Indian lands.

(g) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for

1 financial assistance under any provision of this section,  
2 the Secretary shall adopt such regulations as are nec-  
3 essary to provide for an offer of employment to the recipi-  
4 ent of such assistance as required by such provision.  
5 Where an offer of employment is not reasonably made, the  
6 regulations shall provide that such service shall no longer  
7 be required.

8 (h) BREACH OF CONTRACT.—Where an individual  
9 fails to accept a reasonable offer of employment in fulfill-  
10 ment of such obligated service or unreasonably terminates  
11 or fails to perform the duties of such employment, the Sec-  
12 retary shall require a repayment of the financial assistance  
13 provided, pro rated for the amount of time of obligated  
14 service that was performed, together with interest on such  
15 amount which would be payable if at the time the amounts  
16 were paid they were loans bearing interest at the maxi-  
17 mum legal prevailing rate, as determined by the Secretary  
18 of the Treasury.

19 **SEC. 10. REGULATIONS.**

20 Except as otherwise provided by this Act, the Sec-  
21 retary shall promulgate final regulations for the imple-  
22 mentation of the Act within 18 months from the date of  
23 its enactment. All regulations promulgated pursuant to  
24 this Act shall be developed by the Secretary with the full  
25 and active participation of Indian tribes.

1 **SEC. 11. SEVERABILITY.**

2 If any provision of this Act, or the application of any  
3 provision of this Act to any person or circumstance, is held  
4 invalid, the application of such provision or circumstance  
5 and the remainder of this Act shall not be affected there-  
6 by.

7 **SEC. 12. TRUST RESPONSIBILITY.**

8 Nothing in this Act shall be construed to—

9 (1) diminish or expand the trust responsibility  
10 of the United States toward Indian fish and wildlife  
11 resources, or any legal obligation or remedy result-  
12 ing therefrom; or

13 (2) abrogate, restrict, modify, alter, or diminish  
14 any treaty-reserved right of any Indian tribe, or any  
15 other rights of Indian tribes under existing Federal  
16 laws.

17 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums  
19 as may be necessary to carry out the purposes of this Act.

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